

Serial No. 10/811,630
60282-032REMARKS

Applicant wishes to thank the Examiner for the detailed remarks. Claims 1, 2, 21, 24, 25, and 26 have been amended. New claims 30-40 are presented. Accordingly, claims 1, 2, and 21-40 are pending.

Applicant notes the provisional obviousness-type double patenting rejection. Applicant defers response until the claims have reached a more final form. Upon which Applicant may then be willing to submit a Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome the provisional obviousness-type double patenting rejection if required at that time.

Claims 1, 2, and 21-29 were rejected under 35 U.S.C. §112. Applicant respectfully submits that the amended claim are in proper condition according to §112.

Claims 1 and 2 were rejected under 35 USC §102(b) as being anticipated by *Gardin* (5,765,465). Applicant respectfully traverses this rejection.

Gardin discloses a high pressure press for high pressure treatment of substances, for example, food stuffs, pharmaceuticals, and cosmetic preparations. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). *Gardin* is classified in classification 92 EXPANSIBLE CHAMBER DEVICES, specifically subclass 86 with removable conduit for liquid seepage from expansible chamber. Such classification is wholly unrelated to the present invention and suggests that the *Gardin* reference is non-analogous. Moreover, *Gardin* is not in Applicant's field of endeavor and is not reasonably pertinent to the particular problem that the Applicant has solved. One would never look to the field of high pressure presses or the treatment of substances such as food stuffs, pharmaceuticals, and cosmetic preparations for systems which perform water jetting operations at approximately 50,000 psi. The dynamic issues associated with fluid jetting as opposed to the relatively static issues associated with a press are simply not reasonably pertinent to each other. *Gardin* is not analogous art and all the rejections based thereon are therefore improper.

Serial No. 10/811.630
60282-032

Amended claim 1 recites that the plunger is reciprocally movable within said inner pressure sleeve. The inner pressure sleeve has an angled interface surface with the outer pressure sleeve. Even if considered analogous art, *Gardin* discloses a safety liner 3 which is located within the supporting liner 2. Notably, the only angled interface is between the supporting liner 2 and the cylindrical element 1. Amended claim 1 is therefore properly allowable.

Claims 26 and 29 were rejected under 35 USC §102(b) as being anticipated by *Baumann* (5,033,940). Applicant respectfully traverses this rejection. Claim 26 has been amended to recite that the outer pressure sleeve and the inner pressure sleeve have an angled interface surface therebetween. The Examiner interprets the *Baumann* liner 26 as the inner pressure sleeve and the sleeve 67 as the outer pressure sleeve. *Baumann* notes that the liner 26 is disclosed in the sleeve 67 and retained therein by shrink fitting. [Col. 4, lines 52-54.] No angled interface surface is disclosed or suggested by the *Baumann* reference.

Claim 27 was rejected under 35 USC §103 as being unpatentable over *Baumann* (5,033,940). The Examiner admits that *Baumann* does not disclose that the manifold is attached to the frame plate by bolting. The Examiner attempts to take official notice that it is well known to attach a manifold to a frame plate using bolts.

Initially, MPEP §2144.03 states that "it would not be appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known." In addition to the Examiner's failure to meet this burden, the Examiner also has not given step (3) any patentable weight. Step (3) specifically recites attaching a manifold to the frame plate to press the inner pressure sleeve into the outer pressure sleeve. That is, irrespective of how the manifold is attached, the *Baumann* reference fails to suggest utilizing the manifold to press the inner pressure sleeve into the outer pressure sleeve. In fact, *Baumann* specifically recites shrink fitting rather than (3) attaching a manifold to the frame plate to press the inner pressure sleeve into the outer pressing sleeve as recited by Applicant. Claim 27 is therefore properly allowable.

Claims 21, 24, and 25 were rejected under 35 USC §103 as being unpatentable over *Gardin et al* in view of *Vandenberg et al*. Applicant traverses this rejection as there is absolutely no teaching, suggestion, or motivation to modify *Gardin* in view of *Vandenberg* as proposed. *Gardin* is related to a high pressure press for high pressure treatment of substances, for example,

Serial No. 10/811,630
60282-032

foodstuffs, pharmaceuticals, and cosmetic preparations. *Vandenberg* discloses a cylindrical pressure vessel that can be filled with a fluid in order to exert an iso static pressure on for example, foodstuffs, pharmaceuticals, cosmetic preparations, and the like. The Examiner admits that *Gardin* does not disclose "a seal cartridge assembly pressed into a frame; or that a packing assembly is located about the plunger and has inner and outer diameter wedge rings, and non-metallic packing rings having a square cross-section." The Examiner then asserts that *Gardin* and *Vandenberg et al* are both in the same field of endeavor, and the purpose disclosed by *Vandenberg et al* would have been recognized in the pertinent art of *Gardin et al*. As such, the Examiner then further asserts that "it would have been obvious at the time the invention was made to one having ordinary skill in the art to press a seal cartridge assembly, a non-metallic packing ring have a square cross-section, into a frame plate attached to the pressure assembly of *Gardin et al* as taught by *Vandenberg et al*, for the purpose of sealing between the plunger and the pressure assembly."

The goal of examination is to clearly articulate any rejection early in the prosecution process so that Applicant has the opportunity to provide evidence of patentability and other reply completely at the earliest opportunity. [MPEP 706.] Applicant cannot properly respond to this rejection as there seems to be no relationship whatsoever between the cited references. *Gardin* is a press and *Vandenberg* is a storage device. As discussed above, *Gardin* is non-analogous art and therefore does not support the proposed combination. Furthermore, it appears the Examiner is selecting disparate components from the cited references utilizing Applicant's invention as a blue print. This is impermissible usage of hindsight in an attempt to recreate Applicant's device. Accordingly, the claims are properly allowable.

Claims 26-28 were rejected under 35 USC §103 as being unpatentable over *Stachowiak* in view of *Gardin et al*. Applicant respectfully traverses these rejections as there is absolutely no teaching, suggestion, or motivation to modify *Stachowiak* in view of *Gardin*. As discussed above, *Gardin* is non-analogous art and the claims are properly allowable for this reason alone.

Stachowiak is, at least, a high pressure reciprocating pump. *Stachowiak* discloses:

A cylindrical stuffing box 32 which is slidably received and contained within each bore 20 of the flange plate 13. Each stuffing box 32 has a circumferential flange 33 at one end which has a flat surface 34 along one side corresponding to the flat surface 22 of the counter-bore 21 in the flange plate 13. The stuffing box flange

Serial No. 10/811,630
60282-032

33 retains the stuffing box 32 and the flange plate 13 during operation with the flat 34 preventing stuffing box 32 from rotating.

[Col. 4, lines 60-68.]


The Examiner admits that *Stachowiak* does not disclose the step of locating an inner pressure sleeve within the outer pressure sleeve. The Examiner has also previously admitted that *Gardin* does not disclose that a seal cartridge assembly is pressed into a frame plate. Thus, even if *Gardin* is considered analogous art and even if the combination is proper - - which it is not - - the proposed combination still fails to suggest attaching a manifold to a frame plate to press the inner pressure sleeve into the outer pressure sleeve. The claims are therefore properly allowable.

New claims 30-40 recite further features of the present invention which are neither disclosed nor suggested by the cited references and are thus properly allowable.

Please charge \$220 to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, for 2 claims in excess of 20 and a one-month extension of time. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,
CARLSON, GASKEY & OLDS, P.C.



DAVID L. WISZ
Registration No. 46,350
Attorneys for Applicant
400 West Maple, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: January 11, 2006

N:\Clients\NLB CORP\JP00032\PATENT\NLBAmd032-09-22-20065--.doc